

M/L
Item No. 26
06.08.2024
KOLE

WPA 9497 of 2024

Shabnam Mustari
-Vs.-
State of West Bengal & Ors.

Mr. Samim Ahmed,
Mr. Arka Ranjan Bhattacharyya

...for the writ petitioner.

Mr. Somnath Ganguly,
Mr. Raja Ram Banerjee,

...for the State.

1. Affidavit of service is taken on record.
2. The writ petitioner is the donee who received a portion of a land from her mother, by way of a registered deed of gift. The mother moved the Maintenance Tribunal under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. The Chairman of the Tribunal cancelled the deed in terms of Section 23 of the 2007 Act.
3. It appears that the ground for seeking cancellation of deed of gift as stated by the donor (senior citizen) was that she was wrongly induced into executing the gift deed and allegations of cheating, misappropriation etc., have also been made. Whereas, Section 23 of the Act of 2007, provides that if a deed of gift is executed in favour of the children, with a condition that the responsibility, liability and maintenance of the senior citizen will rest on the person to whom the property is gifted, only then the senior citizen can approach the

Maintenance Tribunal seeking cancellation in case of non-compliance of such condition.

4. This is a case which in my, prima facie, view is required to be decided by a Civil Court. Despite service, none appears on behalf of the respondent no. 4. Fresh notice be issued upon the respondent no. 4.
5. In the meantime, the order passed by the Authority directing cancellation of the deed of gift, shall remain stayed. The petitioner will continue to maintain the mother by paying Rs. 2000/- per month as directed by the Tribunal on and from August, 2024.
6. It also appears that a complaint had been lodged with the Police against the petitioner, alleging that the petitioner had cheated the mother and misappropriated the property. This also indicates that the cause of action to move the maintenance Tribunal is not covered under Section 23 of the 2007 Act.
7. List the matter in the combined Monthly List of September, 2024.

(Shampa Sarkar, J.)